

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ROBERT FISCHER and STEPHANIE)
LUKIS, individually and on behalf of all)
others similarly situated,)
Plaintiffs,) Case No. 1:19-cv-04892
v.)
INSTANT CHECKMATE LLC,)
Defendant.) Hon. Judge Manish S. Shah

**INSTANT CHECKMATE LLC'S MOTION FOR
DECERTIFICATION OF THE SEO DIRECTORY CLASS**

Instant Checkmate LLC moves to decertify the SEO Directory Class under Federal Rule of Civil Procedure 23(c)(1)(C) in light of new developments concerning the facts of this case and the applicable law. Three issues first noted in the original class certification briefing have now crystallized and support the relief Instant Checkmate LLP seeks in this motion:

1. *First*, new information that arose during the class notice process indicates that a substantial percentage of the class may have accepted Instant Checkmate LLC's Terms of Use and agreed to arbitrate any claims against Instant Checkmate LLC and may have consented to Instant Checkmate LLC's use and display of their identifying information. The fact-intensive inquiries necessary to determine who is bound to arbitrate and/or gave consent vitiates any predominance of common issues.

2. *Second*, a recent decision of the United States Court of Appeals for the Seventh Circuit has clarified that the SEO Directory Class is unmanageable in that it is not possible to determine which members can state a valid IRPA claim.

3. *Third*, a recent Illinois Supreme Court decision clarifies that the statute of limitations applicable to plaintiffs' claim is one year. That decision requires rejecting the five-year subclass the Court previously certified. It also demonstrates the unmanageability of any SEO Directory class, as there is no method of determining the members of the class, as is necessary to enter a final judgment.

4. In further support of this motion, Instant Checkmate LLC submits the accompanying Memorandum of Law.

WHEREFORE, Defendant Instant Checkmate LLC respectfully requests the Court to decertify the SEO Directory Class.

Dated: March 27, 2023

Respectfully Submitted,

INSTANT CHECKMATE LLC

By: /s/ Debbie L. Berman

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Attorneys for Defendant Instant Checkmate LLC

CERTIFICATE OF SERVICE

I, Debbie L. Berman, certify that on March 27, 2023, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will then send a Notice of Electronic Filing to all counsel of record.

/s/ Debbie L. Berman
Debbie L. Berman